



BILLING CODE 4510-FP-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; H-2A Temporary Agricultural Labor Certification Program

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training (ETA) sponsored information collection request (ICR) revision titled, “H-2A Temporary Agricultural Labor Certification Program,” to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free of charge from the RegInfo.gov website at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201903-1205-002](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201903-1205-002) (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-ETA, Office of Management and Budget, Room 10235, 725 17th Street, N.W., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, N.W., Washington, DC 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number), TTY 202-693-8064, (this is not a toll-free numbers) or sending an email to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the H-2A Temporary Agricultural Labor Certification Program information collection. This information collection has been classified as a revision because the DOL is proposing modifications to: align information collection requirements with its current regulatory framework better; provide greater clarity to employers on regulatory requirements; standardize and streamline information collection to reduce employer time and burden preparing applications; and promote greater efficiency and transparency in the ETA's review and issuance of labor certification decisions under the H-2A visa program. The Immigration and Nationality Act (INA) and the Department of Homeland Security's (DHS) and DOL's regulations authorize this information collection. *See* INA

Sections 101(a)(15)(H)(ii)(a), 214(c), and 218 (8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188) and 8 CFR 214.2(h)(5) and 20 CFR 655, subpart B.

The H-2A visa program enables employers to bring nonimmigrant foreign workers to the United States to perform agricultural work of a seasonal or temporary nature as defined in 8 U.S.C. 1101(a)(15)(H)(ii)(a). Before an employer can file a petition with DHS to import temporary workers as H-2A nonimmigrants, the INA and DHS regulations require an employer first to obtain a determination from DOL, certifying whether a qualified U.S. worker is available to fill the job opportunity described in the employer's petition for a temporary agricultural worker and whether a foreign worker's employment in the job opportunity will adversely affect the wages or working conditions of similarly employed U.S. workers. *See* 8 U.S.C. 1188, INA section 218; 8 CFR 214.2(h)(5)(i), (ii) and (iv)(B). DOL's regulations establish the processes by which an employer must obtain a temporary labor certification from DOL and the rights and obligations of workers and employers. *See* 20 CFR part 655, subpart B.

This ICR includes the collection of information related to the temporary labor certification process and agricultural clearance order process in the H-2A program. The information contained in the application Form ETA-9142A, *H-2A Application for Temporary Employment Certification*, and the job order Form ETA-790/790A, *H-2A Agricultural Clearance Order*, serve as the basis for the Secretary of Labor's determination that qualified U.S. workers are not available to perform the services or labor needed by the employer and that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of H-2A

workers. Employers use *Appendix A* of the Form ETA-9142A to attest that they will comply with all of the terms, conditions, and obligations of the H-2A program.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. DOL obtains OMB approval for this information collection under Control Number 1205-0466. The current approval is scheduled to expire on May 31, 2019; however, DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on October 25, 2018 (83 FR 53911).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within thirty (30) days of publication of this notice in the *Federal Register*. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205-0466. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* DOL-ETA.

*Title of Collection:* H-2A Temporary Agricultural Labor Certification Program.

*OMB Control Number:* 1205-0466.

*Affected Public:* Individuals or Households; Private Sector (businesses or other for-profit institutions); Federal Government; and State, Local and Tribal Governments.

*Total Estimated Number of Respondents:* 8,783.

*Annual Frequency:* On Occasion.

*Total Estimated Number of Responses:* 273,537.

*Total Estimated Annual Time Burden:* 52,385 hours.

*Total Estimated Annual Other Costs Burden:* \$2,521,940.

*Authority:* 44 U.S.C. 3507(a)(1)(D).

*Dated:* May 23, 2019.

Michel Smyth,

Departmental Clearance Officer.

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